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Amendment No. 1 to HB1786

**Jones U (Shel)
Signature of Sponsor**

AMEND Senate Bill No. 1770*

House Bill No. 1786

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-35-302, is amended by adding the following language as new, appropriately designated subsections:

(h)

(1) The provisions of this subsection and subsection (i) shall apply only in any county having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census.

(2) Notwithstanding any provision of this section to the contrary, the clerks of the criminal court and general sessions court in which probation is granted shall distribute criminal misdemeanor probationer cases on a rotating basis among all qualified private probation companies operating in the county and the county probation office based on the classification system established pursuant to subsection (i).

(3) The use of private probation companies to monitor misdemeanor probationers shall be regulated by the clerks of the criminal court and general sessions court in accordance with uniform operational guidelines established by the private probation services council in accordance with subsection (i) of this act. The clerks of the criminal court and the general sessions court shall develop a common referral form for the order of probation and order of reference (pre-sentence report) and other necessary forms to be utilized by judges in the judicial district, which shall replace forms being used on the effective date of this act. The clerks of the criminal court and the general sessions court shall report the

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compliance with the rotational system to the presiding judge of the judicial district or county every six (6) months in order to ensure compliance with this act.

(4) Each company monitoring probationers for the court shall charge the standard monthly fee to the probationer as established by law and shall remit to the county an administrative fee of thirty-five dollars (\$35.00) per probationer assigned in the rotation process. This fee is due on the fifteenth (15th) of the following month. Fees must be kept current or such probation company shall be suspended until fees are paid. For providing services in accordance with this subsection, the clerks of the criminal court and the general sessions court are authorized to receive a ten dollar (\$10) fee from such administrative fee. If a company is suspended twice for delinquent fees in a calendar year, such company shall be required to appear before the private probation services council for disciplinary action. If a judge waives the standard fee to be paid by an indigent probationer, the administrative fee to be paid by the monitoring company shall likewise be waived. No administrative fees shall be required from the county probation office.

(5) All private probation companies must be classified and meet guidelines and standards set forth by the private probation services council in accordance with subsection (i).

(6) No officer of the court, including a judge or attorney, shall knowingly influence, directly or indirectly, the rotation process.

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(7) No private, state or county entity that provides probation supervisory services shall knowingly attempt to directly or indirectly influence the rotation process.

(8) A violation of subdivision (6) or (7) subjects the person to a civil penalty in an amount not to exceed five hundred dollars (\$500).

(i)

(1) Notwithstanding the provisions of Tennessee Code Annotated, Title 16, Chapter 3, Part 9, any county having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, is authorized to create a private probation services council the membership of which shall consist of the following five (5) voting members to serve one (1) year terms:

(A) One (1) judge to be appointed by the presiding judge;

(B) One (1) county employee to be appointed by the county mayor;

(C) One (1) private citizen not connected to the probation industry to be appointed by the county mayor; and

(D) Two (2) members who are in the probation field or knowledgeable of the probation industry one (1) to be appointed by the presiding judge and one (1) to be appointed by the county mayor.

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Each appointment shall be made within sixty (60) days of the effective date of this act. A vacancy shall be filled for the unexpired term by the same appointing authority as for the original appointment.

The council shall meet in organizational session within ten (10) days of the final appointment and such meeting shall be convened by the private citizen not connected to the probation industry. At such meeting the council shall elect those officers deemed necessary by the members of the council to efficiently operate the council.

(2) The private probation services council created in a county pursuant to this subsection shall create a three (3) level classification system for that county for, and shall certify, private probation companies operating in such county in one of such established categories. Such system shall be developed within sixty (60) days of the organizational meeting with certifications of private probation companies to be made as soon as practicable thereafter.

(3) At the same time the judge grants probation to a defendant, the judge shall determine what level of probation services are required for the defendant and a private probation company, based on its classification level, shall be chosen on the rotation system established pursuant to subsection (h).

(4) Any person aggrieved by any decision of the private probation council shall be appealable to the county legislative body of any county to which this subsection applies.

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(5) If the private probation council fails to be timely appointed, or having been timely appointed fails to develop such classification within the period established pursuant to subdivision (2), then any citizen is authorized to present to the county legislative body of any county to which this subsection applies a rotation system for approval of such county legislative body. The first such system approved by the county legislative body shall become the system for such county notwithstanding any other provisions of subsection (h) or this subsection.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.